

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): R.L. Hackbarth et al.

Case: 2-3-12

Serial No.: 09/886,876

Filing Date: June 21, 2001

Group: 2174

Examiner: Ryan F. Pitaro

Title: Apparatus and Method for Use in Portal Service
for a Team Utilizing Collaboration Services

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
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Sir:

The remarks which follow are submitted in response to the present Examiner's Answer, dated January 8, 2008, in the above-identified application. The arguments presented by Appellants in the Appeal Brief, dated October 1, 2007, are hereby incorporated by reference herein.

Appellants will respond herein to certain arguments raised by the Examiner in Section 10, pp. 7-8, of the present Examiner's Answer (hereinafter "Answer").

ARGUMENT

In the Answer at page 7, first paragraph, of the Answer, the Examiner responds to Appellants' arguments that neither Tang nor Seybold teach or suggest at least the limitation of claim 1 wherein a time axis has axis positions corresponding to respective ones of a plurality of time ranges of differing durations arranged along the time axis in a sequence of increasing duration from a first time range of relatively short duration to additional time ranges of progressively longer duration. In doing so, the Examiner at least implicitly concedes that the proposed combination does not in fact teach or suggest this limitation but, rather, argues that because "the specification is virtually silent on the matter of any purported advantage to the specific layout of the time axis and even further describes it as an 'example implementation' (Page 26 lines 6-15), it is regarded as not solving any particular problem or produces [sic] any unexpected result."

In making this argument, the Examiner apparently places great weight on the alleged description in the present specification at page 26, lines 6-15, of the claimed time axis as an "example implementation." The cited portion of the specification states that, when drawing each OpenChannel View, "horizontal time axis 1003 is created which has a number of scales. In this example implementation, there are six equal divisions of screen width for time ranges," then enumerates the six specific time ranges shown in FIG. 10. Appellants respectfully submit that, rather than stating the aforementioned limitation of claim 1 is an example implementation, the relied-upon portion of the specification indicates that the horizontal time axis 1003 shown in FIG. 10, which has six equal divisions of screen width for time ranges, is an example implementation of a time axis failing within the scope of claim 1. Indeed, the scope of claim 1 encompasses, for example, time axes having a different number of time ranges than those recited in the cited portion of the specification, as well as time ranges of durations other than the six specific durations enumerated in the cited portion of the specification.

Furthermore, assuming that the specification in fact fails to recite any purported advantages or unexpected results associated with the claimed time axis layout, Appellants respectfully note that nowhere is it required that the specification recite purported advantages or unexpected results for a claim to define patentable subject matter. See, e.g., MPEP 716.02(f) and

cases cited therein (“The totality of the record must be considered when determining whether a claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made. Therefore, evidence and arguments directed to advantages not disclosed in the specification cannot be disregarded.”)

Here, Appellants respectfully submit that the time axis layout recited in claim 1 facilitates the advantages associated with the OpenChannel View, such as dynamic visual representation of team member data, as recited in the specification at, for example, page 9, lines 5-19, and page 26, line 26, to page 27, line 2.

Moreover, the claimed time axis layout would be patentably non-obvious even if there were in fact no advantages or unexpected results associated therewith. See, e.g., MPEP 716.01(a) (“The lack of objective evidence of nonobviousness does not weigh in favor of obviousness.”) (citing *Miles Labs. Inc. v. Shandon Inc.*, 997 F.2d 870, 878, 27 USPQ2d 1123, 1129 (Fed. Cir. 1993), *cert. denied*, 127 L. Ed. 232 (1994)).

In the Answer at page 7, last paragraph, the Examiner asserts that while “Tang provides a simple way of tracking most recent activity, one skilled in the art would recognize the need for improvement for a time scaled collaborative management tool that consolidates, coordinates, and tracks team activity, especially for the working environment of Tang.” Even if one accepts the Examiner’s contention that one skilled in the art would recognize the problem recited by the Examiner, Appellants respectfully submit that one having skill in the art would not have looked to Seybold, which unlike either Tang or the present invention, relates solely to the scheduling of future activities, rather than the determination of past or current activity states. Thus, Appellants respectfully submit that Seybold is neither in the field of Appellants’ endeavor nor logically would have commended itself to an inventor’s attention in considering his problem, much less have been an obvious candidate for combination with Tang.

For the reasons identified above and in the Appeal Brief, Appellants respectfully submit that claims 1-27 are in condition for allowance, and respectfully request withdrawal of the §103(a) rejection.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph B. Ryan", with a long horizontal stroke extending to the right.

Date: March 10, 2008

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